

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

_____)	
CURTIS MITCHELL)	
Petitioner,)	
)	
v.)	Civil Action No. 04-10539-RGS
)	
TIMOTHY HALL)	
Respondent.)	
_____)	

ANSWER

Pursuant to Rule 5 of the Rules Governing Section 2254 Cases in the United States District Courts, the respondent hereby answers the petition for writ of habeas corpus of the petitioner Curtis Mitchell.

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted.
5. Admitted.
6. Admitted.
7. Admitted.
8. Admitted.

9(a)-(c). Admitted. Answering further, the respondent states that the citation for the Supreme Judicial Court's decision is 438 Mass. 535, 781 N.E.2d 1237 (2003).

10. Admitted.

11(a). Admitted.

11(b)(1)-(2). Admitted.

11(b)(3). The respondent states that he lacks knowledge or information sufficient to admit or deny the allegations contained in this paragraph.

11(b)(4)-(6). Admitted.

11(c). Left blank by petitioner.

11(d). Admitted.

12. The respondent states that paragraph 12 contains legal argument and conclusions to which no response is required. To the extent that a response is deemed necessary, the respondent denies the factual allegations contained in paragraph 12 of the petition insofar as they are inconsistent with the facts found by the Massachusetts Supreme Judicial Court in *Commonwealth v. Mitchell*, 438 Mass. 535, 781 N.E. 2d 1237 (2003).

13. Left blank by petitioner.

14. The respondent states that he lacks knowledge or information sufficient to admit or deny the allegations contained in paragraph 14.

15(a)-(g). Admitted.

16. Admitted.

17. The respondent lacks the knowledge or information sufficient to admit or deny the allegations contained in paragraph 17.

And further answering the respondent has obtained transcripts from the petitioner's trial which will be supplied to the Court whenever deemed necessary. Pursuant to Rule 5 of the Rules Governing 28 U.S.C. §2254 cases, the respondent is filing a Supplemental Answer with the following documents from the petitioner's state court proceedings:

1. Brief and Record Appendix on appeal to the Supreme Judicial Court (8264).
2. Brief and Supplemental Appendix for the Commonwealth of Massachusetts on Appeal to the Supreme Judicial Court (8264).

3. *Commonwealth v. Mitchell*, 438 Mass. 535, 781 N.E.2d 1237 (2003).

DEFENSES

1. Petitioner has failed to state a claim upon which relief can be granted.
2. In the alternative, the state court adjudication of the petitioner's claims was not contrary to or an unreasonable application of clearly established Supreme Court law nor was it based on an unreasonable determination of the facts in light of the evidence presented in the state court.

The respondent respectfully reserves the right to amend or supplement this Answer in the future should the need arise.

Respectfully submitted,

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ATTORNEY GENERAL

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